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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/538,794

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EXAMINER

DANIEL JR, WILLIE J

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

01/26/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/538,794

**Applicant(s)**

CRASWELL ET AL.

**Examiner**

WILLIE J. DANIEL JR

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This action is in response to applicant's amendment filed on 17 November 2009. **Claims 1-5 and 10-12** are now pending in the present application and **claims 6-9 and 13-29** are canceled. This office action is made **Final**.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-5 and 10-12** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kawamata et al.** (hereinafter **Kawamata**) (**US 6,820,259 B1**) in view of **Herschberg et al.** (hereinafter **Herschberg**) (**US 2003/0022657 A1**).

Regarding **claim 1**, **Kawamata** discloses a wireless computing apparatus (e.g., terminal apparatus 1250, 150) (see col. 10, lines 44-50; Figs. 1-2 & 12) having:

a processor (e.g., terminal side control unit 180) (see col. 11, lines 47,62-64; Figs. 2 & 12); and

a memory (e.g., navigation unit 195) comprising computer executable instructions which, upon execution are operative to cause the wireless computing apparatus to (see col. 3, lines 5-13,30-33; col. 11, lines 47-51; Figs. 2 & 12), where the software of the navigation unit is updated:

request available updates (see col. 10, lines 61-63; col. 11, lines 58-61; col. 12, lines 35-40; Figs. 13 'ref. 1305', 16 'ref. 1610');

receive, in response to said request, an update catalog (e.g., software group) for available updates (see col. 10, lines 61-63; col. 13, lines 24-28; Fig. 18),

said update catalog (e.g., software group) comprises available discretionary updates and mandatory updates (e.g., software group necessary) (see col. 13, lines 15-23,46-51; Figs. 7 & 18);

receive, with the update catalog (e.g., software group), any mandatory updates (see col. 13, lines 15-23,46-51; Figs. 7 & 18);

automatically install the received mandatory updates (see col. 13, lines 46-51; col. 14, lines 12-16; col. 10, lines 37-40; Figs. 7, 15 'ref. 1515', & 18).

See MPEP § 2144.04(III). [In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958)...The court held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art.).]

As a note, Kawamata further teaches the feature(s) determine relevance of the available discretionary updates (see col. 4, lines 15-19; col. 6, lines 9-15). Kawamata does not specifically disclose having the feature(s) catalog comprising available discretionary updates; determine relevance of the available discretionary updates; and depict representations of any relevant discretionary updates in a selectable manner. However, the examiner maintains that the feature(s) catalog comprising available discretionary updates; determine relevance of the

available discretionary updates; and depict representations of any relevant discretionary updates in a selectable manner was well known in the art, as taught by Herschberg.

In the same field of endeavor, Herschberg discloses the feature(s) catalog comprising available discretionary updates (e.g., optional applications) and mandatory updates (e.g., required applications) (see pg. 1, [0009, lines 7-13]; pg. 2, [0086, 0088, 0093]; Fig. 1a), where the system has optional and required applications;

determine relevance of the available discretionary updates (see pg. 1, [0009, lines 7-13]; pg. 2, [0086, 0088, 0093]; pg. 10, [0181]; Figs. 1a & 46c); and

depict representations of any relevant discretionary updates in a selectable manner (see pg. 1, [0009, lines 7-13]; pg. 10, [0181, lines 1-4]; Figs. 1a & 46c). As further support, Herschberg at the least discloses the feature(s) automatically install the received mandatory updates (see pg. 9, [0172, lines 4-6]; pg. 11, [0197, lines 1-6]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kawamata and Herschberg to have the feature(s) catalog comprising available discretionary updates; determine relevance of the available discretionary updates; and depict representations of any relevant discretionary updates in a selectable manner, in order to provide a system and method for managing application provisioning to one or more wireless devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Regarding **claim 2**, Kawamata discloses every limitation claimed as applied above in claim 1. Kawamata does not specifically disclose having the feature(s) operative to cause the wireless computing apparatus to select a desired discretionary update from said depicted

relevant discretionary updates; and obtain said desired discretionary update. However, the examiner maintains that the feature(s) operative to cause the wireless computing apparatus to select a desired discretionary update from said depicted relevant discretionary updates; and obtain said desired discretionary update was well known in the art, as taught by Herschberg.

Herschberg further discloses the feature(s) operative to cause the wireless computing apparatus to select a desired discretionary update (e.g., optional applications) from said depicted relevant discretionary updates (e.g., optional applications) (see pg. 1, [0009, lines 7-13]; pg. 2, [0086, 0088, 0093]; pg. 10, [0181, lines 1-4]; Figs. 1a & 46c); and obtain said desired discretionary update (see pg. 10, [0181, lines 11-13]; Fig. 46c).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kawamata and Herschberg to have the feature(s) operative to cause the wireless computing apparatus to select a desired discretionary update from said depicted relevant discretionary updates; and obtain said desired discretionary update, in order to provide a system and method for managing application provisioning to one or more wireless devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Regarding **claim 3**, Kawamata discloses every limitation claimed as applied above in claim 2. Kawamata does not specifically disclose having the feature(s) operative to install said obtained discretionary update. However, the examiner maintains that the feature(s) operative to install said obtained discretionary update was well known in the art, as taught by Herschberg.

Herschberg further discloses the feature(s) operative to install said obtained discretionary update (e.g., optional applications) (see pg. 10, [0181, lines 11-13]; Fig. 46c).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kawamata and Herschberg to have the feature(s) operative to install said obtained discretionary update, in order to provide a system and method for managing application provisioning to one or more wireless devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Regarding **claim 4**, Kawamata discloses every limitation claimed as applied above in claim 1. Kawamata does not specifically disclose having the feature(s) wherein said relevance of the discretionary updates is determined from a current state of the apparatus. However, the examiner maintains that the feature(s) wherein said relevance of the discretionary updates is determined from a current state of the apparatus was well known in the art, as taught by Herschberg.

Herschberg further discloses the feature(s) wherein said relevance of the discretionary updates is determined from a current state of the apparatus (see pg. 1, [0009, lines 7-13]; pg. 2, [0086, 0088, 0093]; pg. 10, [0181]; Figs. 1a & 46c).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kawamata and Herschberg to have the feature(s) wherein said relevance of the discretionary updates is determined from a current state of the apparatus, in order to provide a system and method for managing application provisioning to one or more wireless devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Regarding **claim 5**, Kawamata discloses every limitation claimed as applied above in claim 4. Kawamata does not specifically disclose having the feature(s) wherein said current state comprises the currently installed software on the apparatus. However, the examiner maintains that the feature(s) wherein said current state comprises the currently installed software on the apparatus was well known in the art, as taught by Herschberg.

Herschberg further discloses the feature(s) wherein said current state comprises the currently installed software on the apparatus (see pg. 1, [0009, lines 7-13]; pg. 2, [0086, 0088, 0093]; pg. 10, [0181]; Figs. 1a & 46c).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kawamata and Herschberg to have the feature(s) wherein said current state comprises the currently installed software on the apparatus, in order to provide a system and method for managing application provisioning to one or more wireless devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Regarding **claim 10**, Kawamata discloses a method of updating data on a wireless mobile device (e.g., terminal apparatus 1250, 150) (see col. 10, lines 44-50; col. 3, lines 5-13,30-33; col. 11, lines 47-51; Figs. 1-2 & 12), where the software of the navigation unit is updated, the method comprising:

requesting available updates by the wireless mobile device (see col. 10, lines 61-63; col. 11, lines 58-61; col. 12, lines 35-40; Figs. 13 'ref. 1305', 16 'ref. 1610');

receiving by the wireless mobile device, in response to said requesting, an update catalog (e.g., software group) for available updates (see col. 10, lines 61-63; col. 13, lines 24-28; Fig. 18),



said update catalog (e.g., software group) comprising available discretionary updates and available mandatory updates (e.g., software group necessary) (see col. 13, lines 15-23,46-51; Figs. 7 & 18);

receiving by the wireless mobile device, with the update catalog, any of said mandatory updates (see col. 13, lines 15-23,46-51; Figs. 7 & 18);

automatically installing by the wireless mobile device the received mandatory updates (see col. 13, lines 46-51; col. 14, lines 12-16; col. 10, lines 37-40; Figs. 7, 15 'ref. 1515', & 18).

See MPEP § 2144.04(III). [In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958)...The court held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art.).]

As a note, Kawamata further teaches the feature(s) determining by the wireless mobile device relevance of the discretionary updates (see col. 4, lines 15-19; col. 6, lines 9-15). Kawamata does not specifically disclose having the feature(s) catalog comprising available discretionary updates and available mandatory updates; determining by the wireless mobile device relevance of the discretionary updates; and depicting by the wireless mobile device any relevant discretionary updates in a selectable manner. However, the examiner maintains that the feature(s) catalog comprising available discretionary updates and available mandatory updates; determining by the wireless mobile device relevance of the discretionary updates; and depicting by the wireless mobile device any relevant discretionary updates in a selectable manner was well known in the art, as taught by Herschberg.

In the same field of endeavor, Herschberg discloses the feature(s) catalog comprising available discretionary updates (e.g., optional applications) and available mandatory updates (e.g., required applications) (see pg. 1, [0009, lines 7-13]; pg. 2, [0086, 0088, 0093]; Fig. 1a);

determining by the wireless mobile device relevance of the discretionary updates (see pg. 1, [0009, lines 7-13]; pg. 2, [0086, 0088, 0093]; pg. 10, [0181]; Figs. 1a & 46c); and

depicting by the wireless mobile device any relevant discretionary updates in a selectable manner (see pg. 1, [0009, lines 7-13]; pg. 10, [0181, lines 1-4]; Figs. 1a & 46c). As further support, Herschberg at the least discloses the feature(s) automatically installing by the wireless mobile device the received mandatory updates (see pg. 9, [0172, lines 4-6]; pg. 11, [0197, lines 1-6]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kawamata and Herschberg to have the feature(s) catalog comprising available discretionary updates and available mandatory updates; determining by the wireless mobile device relevance of the discretionary updates; and depicting by the wireless mobile device any relevant discretionary updates in a selectable manner, in order to provide a system and method for managing application provisioning to one or more wireless devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

Regarding **claim 11**, the combination of Kawamata and Herschberg discloses every limitation claimed, as applied above (see claim 10), in addition Kawamata further discloses the method of claim 10, wherein said determining further comprises comparing by the wireless mobile device, the update catalog to software installed on the mobile device (see col. 5, lines 47-66; Figs. 7 & 18).

Regarding **claim 12**, Kawamata discloses every limitation claimed as applied above in claim 10. Kawamata does not specifically disclose having the feature(s) selecting by the wireless mobile device, a desired discretionary update from said depicted relevant discretionary updates; and obtaining said desired discretionary update. However, the examiner maintains that the feature(s) selecting by the wireless mobile device, a desired discretionary update from said depicted relevant discretionary updates; and obtaining said desired discretionary update was well known in the art, as taught by Herschberg.

Herschberg further discloses the feature(s) selecting by the wireless mobile device, a desired discretionary update (e.g., optional applications) from said depicted relevant discretionary updates (e.g., optional applications) (see pg. 1, [0009, lines 7-13]; pg. 2, [0086, 0088, 0093]; pg. 10, [0181, lines 1-4]; Figs. 1a & 46c); and  
obtaining said desired discretionary update (see pg. 10, [0181, lines 11-13]; Fig. 46c).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kawamata and Herschberg to have the feature(s) selecting by the wireless mobile device, a desired discretionary update from said depicted relevant discretionary updates; and obtaining said desired discretionary update, in order to provide a system and method for managing application provisioning to one or more wireless devices, as taught by Herschberg (see pg. 1, [0005, lines 1-2]).

***Response to Arguments***

3. Applicant's arguments with respect to claims 1-5 and 10-12 have been considered but are moot in view of the new ground(s) of rejection necessitated by the amended language and/or new limitations.

In response to applicant's arguments, the Examiner respectfully disagrees as the applied reference(s) provide more than adequate support and to further clarify (see the above claims for relevant citations).

***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to 3 whose telephone number is (571)272-7907. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/WJD,Jr/

WJD,Jr  
17 January 2010

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